

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, California 94105**

**NOTICE OF PROPOSED ACTION AND
NOTICE OF PUBLIC HEARING**

**RH-386
November 6, 2000**

**RATE REGULATIONS GOVERNING CREDIT PROPERTY INSURANCE AND
CREDIT UNEMPLOYMENT INSURANCE**

SUBJECT OF HEARING

Notice is hereby given that a public hearing will be held regarding the proposed adoption of regulations which specify prima facie rates for credit property insurance, joint credit property insurance, credit unemployment insurance, and joint credit unemployment insurance.

AUTHORITY AND REFERENCE

The Insurance Commissioner proposes the adoption of Title 10, Chapter 5, Subchapter 4.10, Article 1 through Article 8, Sections 2670.1 through 2670.27, pursuant to the authority vested in him by Sections 779.21, 779.36, 12921 and 12926 of the California Insurance Code, *Credit Insurance General Agents Association v. Payne*, 16 Cal.3d 651 (1976), and *20th Century v. Garamendi*, 8 Cal.4th 216 (1994). The purpose of these regulations is to implement, interpret, and make specific provisions of the California Insurance Code, including but not limited to, Section 779.36.

HEARING DATE AND LOCATION

The public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed regulations at the date, time, and place set forth below:

Date and time:	January 3, 2001 10:00 a.m.*
Location:	45 Fremont Street 22nd Floor Hearing Room San Francisco, CA 94105

*The hearing will continue on the date noted until all testimony has been completed or 4:30 p.m., whichever is earlier.

ACCESS TO HEARING ROOM

The public hearing room is accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person (listed below) for the hearing in order to make special arrangements, if necessary.

WRITTEN AND/OR ORAL COMMENTS; AGENCY CONTACT PERSON

All persons are invited to submit written comments to the Insurance Commissioner on the proposed regulations. Comments should be addressed to the agency contact person:

Nancy Neu, Senior Staff Counsel
California Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, CA 94105
(415) 538-4144

All written materials, unless submitted at the hearing, must be received by the Insurance Commissioner at the address listed above no later than 4:30 p.m. on January 3, 2001. Any written materials received after that time will not be considered.

WRITTEN COMMENTS SUBMITTED BY FACSIMILE OR E-MAIL WILL NOT BE ACCEPTED OR CONSIDERED.

All persons are also invited to present oral and/or written testimony at the scheduled public hearing.

QUESTIONS REGARDING REGULATIONS

Questions regarding these regulations should be directed to the agency contact person.

ADVOCACY OR WITNESS FEES

Eligible persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of Title 10 of the California Code of Regulations in connection with their participation in this matter. Interested persons should contact the Office of the Public Advisor at the following address in order to inquire about the appropriate procedures:

Office of the Public Advisor
California Department of Insurance
300 Capitol Mall, 17th Floor
Sacramento, CA 95814

A copy of any written material submitted to the Public Advisor regarding this rulemaking must also be submitted to the agency contact person listed above.

INFORMATIVE DIGEST

Summary of Existing Law

Existing law governing credit property insurance and credit unemployment insurance rates is set forth in Insurance Code §779.36 and Proposition 103 (Insurance Code §§1861.01 et seq.). The provisions of Proposition 103 apply prior approval rate regulation to these lines of insurance, and the provisions of §779.36, as amended by Statutes of 1999, Chapter 413 (AB 1456), §1, contain requirements specifically for credit property insurance, joint credit property insurance, credit unemployment insurance, and joint credit unemployment insurance. (Hereafter both credit property insurance and joint credit property insurance are included in references to “credit property insurance,” and both credit unemployment insurance and joint credit unemployment insurance are included in references to “credit unemployment insurance.”)

Originally Insurance Code §779.36 governed only credit life insurance and credit disability insurance. In 1999 the Legislature amended to statute, largely in response to a March 1999 report by Consumers Union and the Center for Economic Justice titled “Credit Insurance: The \$2 Billion A Year Rip-Off,” subtitled “Ineffective Regulation Fails to Protect Consumers” (the “Report”). The Report describes how a marketing system of “reverse competition” generates high rates for credit property insurance and credit unemployment insurance relative to the benefit provided by the coverages. The Report also detailed numerous objectionable practices by the credit insurance industry in selling these coverages and resolving claims. In response, the Legislature amended §779.36 to add rate control provisions for credit property insurance and credit unemployment insurance (as well as credit life and disability insurance).

Although regulations exist which implement the prior approval provisions of Proposition 103, there are no regulations which implement the provisions of Insurance Code §779.36 which govern credit property insurance and credit unemployment insurance. Insurance Code §779.36 as amended requires the Commissioner to adopt regulations “that become effective no later than January 1, 2001, specifying prima facie rates based upon presumptive loss ratios, with rates which would be expected to result in a target loss ratio of 60 percent, or any other loss ratio as may be dictated after applying the factors contained in this subdivision, for each class of ...credit unemployment [and] credit property...insurance.” The statute also includes “joint credit property insurance” and “joint credit unemployment insurance” within its rate control provisions. Section 779.36 requires the Commissioner to make the insurers’ actual annual loss ratios available to the public each year.

Adoption and Background

The Commissioner proposes the adoption of Title 10, Chapter 5, Subchapter 4.10, Article 1 through Article 8, §§2670.1 through 2670.27 on a permanent basis. The purpose of the regulations is to implement, interpret and make specific provisions of the California Insurance Code, including but not limited to, §779.36. The regulations establish prima

facie rates for credit property insurance, joint credit property insurance, credit unemployment insurance, and joint credit unemployment insurance as required by California Insurance Code §779.36. The regulations also require insurers to report actual annual loss ratio data to the Department of Insurance so that the Commissioner can make this information available to the public.

This rulemaking action pertains only to the fixing of “rates, prices or tariffs.” Under Govt. Code Sec. 11343(a)(1) it is exempt from Office of Administrative Law approval.

PLAIN ENGLISH OVERVIEW

The proposed regulations contain the following provisions:

Article 1. Scope.

Section 2670.1. Authority.

Existing regulations do not set forth the legal authority for regulations which implement Insurance Code §779.36. This section sets forth the legal authority for the regulations.

Section 2670.2. Purpose.

Existing law does not set forth the purpose of regulations promulgated to effectuate Insurance Code §779.36. This section states that the purpose of the regulations is to implement the provisions of Insurance Code Section 779.36 which apply to credit property insurance, joint credit property insurance, credit unemployment insurance, and joint credit unemployment insurance.

Section 2670.3. Applicability.

Existing law does not set forth the applicability of regulations promulgated to effectuate Insurance Code §779.36. This section states that the proposed regulations apply to all credit property insurance, joint credit property insurance, credit unemployment insurance, and joint credit unemployment insurance on risks or on operations in California.

Article 2. Definitions.

Section 2670.4. Definitions Applicable to this Subchapter.

- (a) Existing law does not define “credit property insurance” as that term is used in the regulations. This section defines “credit property insurance” as it is used in the regulations.
- (b) Existing law does not define “joint credit property insurance” as that term is used in the regulations. This section defines “joint credit property insurance” as it is used in the regulations.

- (c) Existing law does not define “credit unemployment insurance” as that term is used in the regulations. This section defines “credit unemployment insurance” as it is used in the regulations.
- (d) Existing law does not define “joint credit unemployment insurance” as that term is used in the regulations. This section defines “joint credit unemployment insurance” as it is used in the regulations.
- (e) Existing law does not define “closed end” plan of indebtedness as that term is used in the regulations. This section defines “closed end” plan of indebtedness as it is used in the regulations.
- (f) Existing law does not define “earned premium” as that term is used in the regulations. This section defines “earned premium” as it is used in the regulations.
- (g) Existing law does not define “experience group” as that term is used in the regulations. This section defines “experience group” as it is used in the regulations.
- (h) Existing law does not define “experience period” as that term is used in the regulations. This section defines “experience period” as it is used in the regulations.
- (i) Existing law does not define “incurred claim count” as that term is used in the regulations. This section defines “incurred claim count” as it is used in the regulations.
- (j) Existing law does not define “open end” plan of indebtedness as that term is used in the regulations. This section defines “open end” plan of indebtedness as it is used in the regulations.
- (k) Existing law does not define “prima facie rate” as that term is used in the regulations. This section defines “prima facie rate” as it is used in the regulations.

Article 3. Regulation of Rates.

Section 2670.5. Presumptive Loss Ratios and Prima Facie Rates, Generally.

Existing law (Insurance Code §779.36) requires the Commissioner to adopt regulations which specify prima facie rates for credit property insurance and credit unemployment insurance based on presumptive loss ratios, with a target loss ratio of 60% or any other loss ratio as may be dictated after applying certain factors listed in the section. This section states that the presumptive loss ratio for credit property insurance and credit unemployment insurance shall be 60%. The section sets forth the method of calculating the loss ratio, and states when a rate shall be presumed excessive under Insurance Code §1861.05. The section explains that the regulations contain prima facie rates based on

benchmark programs set forth in the regulations. The section specifies when an insurer may use a program which is different from a benchmark program.

Section 2670.6. Prima Facie Rates for Benchmark Programs.

Existing law does not specify the prima facie rates required by Insurance Code §779.36. This section specifies the prima facie rates for the nine benchmark programs set forth in the proposed regulations.

Section 2670.7. Calculation of the Maximum Permitted Premium.

Existing law does not specify how rates for credit property insurance and credit unemployment insurance shall be calculated under the rate regulation requirements of Insurance Code §779.36. This section specifies how rates shall be calculated.

Section 2670.8. Rate Changes.

Existing law does not specify the manner in which insurers are to make rate changes in order to comply with the requirements of Insurance Code §779.36. This section tells insurers under what circumstances they must file a proposed rate decrease, and under what circumstances they must file a proposed rate increase. The section states that a proposed rate may not exceed the maximum permitted premium. However, the Commissioner may approve a rate higher than the maximum permitted premium if a lower rate provides inadequate allowances for the factors set forth in Insurance Code §779.36. The Commissioner shall disapprove a rate if the insurer does not demonstrate that the rate has been determined in accordance with the law.

The section specifies the time frames within which rate decreases and rate increases shall become effective. It restricts the ability of an insurer to raise rates when assuming business or when transferring a creditor or creditor group to another experience group. The section allows the Commissioner to consider proposals for rates in excess of the maximum permitted premium rates for specific creditors, creditor groups, or products if it is demonstrated that the maximum permitted premium rates provide inadequate allowances for the factors listed in Insurance Code §779.36.

Section 2670.9. Table.

Existing law does not explain how to determine the credibility factor to be used in calculating credit property insurance rates or credit unemployment insurance rates. This section sets forth a table and instructions by which that can be done.

Section 2670.10. Certificate of Insurance; Filing Requirements.

The Insurance Code does not expressly state that certificates of insurance (which are issued to the certificate holder, i.e., the consumer) for credit property insurance or credit unemployment insurance must set forth all applicable coverages, exclusions, and limits of

liability. In addition, the Insurance Code does not expressly state that the coverages, exclusions, and limits of liability in a master policy which pertain to certificates of insurance issued under the master policy must match the coverages, exclusions, and limits of liability set forth in a certificate of insurance issued under the master policy. This section requires that all applicable coverages, exclusions, and limits of liability must be set forth in each certificate of insurance, and requires that these provisions be consistent with the coverages, exclusions, and limits of liability contained in the master policy under which the certificate is issued. This section also provides that every rate filing subject to the regulations shall include copies of the certificate of insurance and master policy used in the program for which the rate filing is made.

Section 2670.11. Cancellation of Coverage and Return Premium.

The Insurance Code contains no provisions which specify the method by which return premium should be calculated when a certificate holder cancels a policy of credit unemployment insurance or a policy of credit property insurance other than single interest credit property insurance coverage on a closed end plan of indebtedness. This section provides that in the event the certificate holder cancels coverage of a policy covered by the section, any return premium shall be computed on a prorata basis if the premium is paid monthly, and by the Rule of 78's if the premium is paid annually and the coverage provided pays off the entire balance of the certificate holder's indebtedness.

Article 4. Benchmark Programs for Credit Property Insurance.

Section 2670.12. Benchmark Number One: Provisions for Dual Interest Credit Property Insurance on an Open End Plan of Indebtedness.

In order to determine the prima facie rates required by Insurance Code §779.36, the Commissioner must identify the coverages and exclusions which form the basis for each prima facie rate. Existing law does not contain benchmark coverages and exclusions for credit property insurance or credit unemployment insurance. This section sets forth benchmark coverages and exclusions for dual interest credit property insurance on an open end plan of indebtedness, a form of credit property insurance sold in California. The benchmark provisions form the basis for a prima facie rate for these coverages and exclusions.

Section 2670.13. Benchmark Number Two: Provisions for Dual Interest Credit Property Insurance on a Closed End Plan of Indebtedness.

In order to determine the prima facie rates required by Insurance Code §779.36, the Commissioner must identify the coverages and exclusions which form the basis for each prima facie rate. Existing law does not contain benchmark coverages and exclusions for credit property insurance or credit unemployment insurance. This section sets forth benchmark coverages and exclusions for dual interest credit property insurance on a closed end plan of indebtedness, a form of credit property insurance sold in California.

The benchmark provisions form the basis for a prima facie rate for these coverages and exclusions.

Section 2670.14. Benchmark Number Three: Provisions for Dual Interest Credit Property Insurance on a Closed End Loan Secured by Personal Property.

In order to determine the prima facie rates required by Insurance Code §779.36, the Commissioner must identify the coverages and exclusions which form the basis for each prima facie rate. Existing law does not contain benchmark coverages and exclusions for credit property insurance or credit unemployment insurance. This section sets forth benchmark coverages and exclusions for dual interest credit property insurance on a closed end loan secured by personal property, a form of credit property insurance sold in California. The benchmark provisions form the basis for a prima facie rate for these coverages and exclusions.

Section 2670.15. Benchmark Number Four: Provisions for Single Interest Credit Property Insurance on a Closed End Loan Secured by Personal Property.

In order to determine the prima facie rates required by Insurance Code §779.36, the Commissioner must identify the coverages and exclusions which form the basis for each prima facie rate. Existing law does not contain benchmark coverages and exclusions for credit property insurance or credit unemployment insurance. This section sets forth benchmark coverages and exclusions for single interest credit property insurance on a closed end loan secured by personal property, a form of credit property insurance sold in California. The benchmark provisions form the basis for a prima facie rate for these coverages and exclusions.

Section 2670.16. Benchmark Number Five: Provisions for Single Interest Credit Property Insurance on a Closed End Loan Secured by Automobile.

In order to determine the prima facie rates required by Insurance Code §779.36, the Commissioner must identify the coverages and exclusions which form the basis for each prima facie rate. Existing law does not contain benchmark coverages and exclusions for credit property insurance or credit unemployment insurance. This section sets forth benchmark coverages and exclusions for single interest credit property insurance on a closed end loan secured by an automobile, a form of credit property insurance sold in California. The benchmark provisions form the basis for a prima facie rate for these coverages and exclusions.

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Article 5. Benchmark Provisions for Credit Unemployment Insurance.

Section 2670.17. Benchmark Number Six: Provisions for 30-Day Retroactive Credit Unemployment Insurance on an Open End Plan of Indebtedness, Invoiced Monthly and Paying Minimum Monthly Payment.

In order to determine the prima facie rates required by Insurance Code §779.36, the Commissioner must identify the coverages and exclusions which form the basis for each prima facie rate. Existing law does not contain benchmark coverages and exclusions for credit property insurance or credit unemployment insurance. This section sets forth benchmark coverages and exclusions for 30-day retroactive credit unemployment insurance on an open end plan of indebtedness, invoiced monthly and paying the minimum monthly payment, a form of credit unemployment insurance sold in California. The benchmark provisions form the basis for a prima facie rate for these coverages and exclusions.

Section 2670. 18. Benchmark Number Seven: Provisions for 30-Day Non-Retroactive Credit Unemployment Insurance on an Open End Plan of Indebtedness, Invoiced Monthly and Paying Minimum Monthly Payment for Nine Months.

In order to determine the prima facie rates required by Insurance Code §779.36, the Commissioner must identify the coverages and exclusions which form the basis for each prima facie rate. Existing law does not contain benchmark coverages and exclusions for credit property insurance or credit unemployment insurance. This section sets forth benchmark coverages and exclusions for 30-day non-retroactive credit unemployment insurance on an open end plan of indebtedness, invoiced monthly and paying the minimum monthly payment for nine months, a form of credit unemployment insurance sold in California. The benchmark provisions form the basis for a prima facie rate for these coverages and exclusions.

Section 2670.19. Benchmark Number Eight: Provisions for 30-Day Retroactive Credit Unemployment Insurance on an Installment Loan Plan of Indebtedness, Invoiced Annually, Paying Monthly Payment on Installment Loan Up to Six Monthly Payments.

In order to determine the prima facie rates required by Insurance Code §779.36, the Commissioner must identify the coverages and exclusions which form the basis for each prima facie rate. Existing law does not contain benchmark coverages and exclusions for credit property insurance or credit unemployment insurance. This section sets forth benchmark coverages and exclusions for 30-day retroactive credit unemployment insurance on an installment loan plan of indebtedness, invoiced annually and paying the monthly payment on the installment loan up to six monthly payments, a form of credit unemployment insurance sold in California. The benchmark provisions form the basis for a prima facie rate for these coverages and exclusions.

Section 2670.20. Benchmark Number Nine: Provisions for 30-Day Non-Retroactive Credit Unemployment Insurance on an Open End Plan of Indebtedness, Invoiced Monthly and Paying Outstanding Balance Up to Policy Limit.

In order to determine the prima facie rates required by Insurance Code §779.36, the Commissioner must identify the coverages and exclusions which form the basis for each prima facie rate. Existing law does not contain benchmark coverages and exclusions for credit property insurance or credit unemployment insurance. This section sets forth benchmark coverages and exclusions for 30-day non-retroactive credit unemployment insurance on an open end plan of indebtedness, invoiced monthly and paying the outstanding balance up to the policy limit, a form of credit unemployment insurance sold in California. The benchmark provisions form the basis for a prima facie rate for these coverages and exclusions.

Article 6. Reporting Requirements.

Section 2670.21. Annual Experience Reports.

Insurance Code §779.36 requires that the Commissioner specify prima facie rates for credit property insurance and credit unemployment insurance. Section 779.36(a) and §779.36(c) state that the prima facie rates “shall be based upon loss experience filed with the commissioner, aggregated by class.” Section 779.36(e) provides that the Commissioner shall make insurers’ actual annual loss ratios for credit property insurance and credit unemployment insurance available to the public on an annual basis. Section 2670.21 of the proposed regulations requires insurers subject to the regulations to file annual reports of their credit property insurance and credit unemployment insurance experience statistics with the Commissioner. The section tells insurers where to file the reports, and instructs insurers on the manner in which the experience statistics shall be reported and filed. The section further requires insurers to maintain experience data on an annual basis for at least five (5) years.

Section 2670.22. Reporting Forms.

As stated above, existing law requires insurers to file annual reports of their credit property insurance and credit unemployment insurance experience statistics with the Commissioner. This section provides an address at the Department of Insurance where reporting forms may be obtained.

Article 7. Effective Date and Severability.

Section 2670.23. Effective Date.

Existing law does not state the date on which the proposed regulations will become effective, and does not establish deadlines by which insurers must make the rate filings required by the regulations. Existing law does not specify the standards by which these rate filings will be reviewed. Existing law does not establish a time frame for use of rates

approved before the effective date of the regulations and does not state what happens in the event an insurer's rate application under §779.36 is disapproved. This section establishes an effective date for the regulations as well as a deadline for insurers to make new rate filings. The section sets forth the standards by which the rate applications will be reviewed. It informs insurers how long they may continue using rates approved before the effective date of the regulations, and it states that programs with unapproved rates will be assigned rates by the Department of Insurance by a certain date.

Section 2670.24. Severability.

Existing law does not address severability of the regulations if any provision is held invalid. This section provides that if any provision is held invalid the rest of the regulations shall not be affected.

Article 8. Credit Property Insurance Experience Report Form and Credit Unemployment Insurance Experience Report Form.

Section 2670.25. Experience Report Form Cover Sheet.

Existing law does not state exactly what information insurers must provide or what format insurers should use when insurers file their experience reports with the Commissioner as required by Insurance Code §779.36. This section sets forth the cover sheet which must be used with all such filings.

Section 2670.26. Credit Property Insurance Experience Report Form.

Existing law does not state exactly what information insurers must provide or what format insurers should use when insurers file their credit property insurance experience reports with the Commissioner as required by Insurance Code §779.36. This section sets forth the form which must be used to report credit property insurance experience under Insurance Code §779.36, with instructions for completing the form.

Section 2670.27. Credit Unemployment Insurance Experience Report Form.

Existing law does not state exactly what information insurers must provide or what format insurers should use when insurers file their credit unemployment insurance experience reports with the Commissioner as required by Insurance Code §779.36. This section sets forth the form which must be used to report credit unemployment insurance experience under Insurance Code §779.36, with instructions for completing the form.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Commissioner has determined that the proposed regulations do not impose any mandates on local agencies or school districts.

COST OR SAVINGS TO STATE AGENCIES AND MANDATE TO LOCAL AGENCIES AND SCHOOL DISTRICTS / FEDERAL FUNDING

The Commissioner has determined that there will be no direct cost or savings to, nor will there be any new program mandates on, any state agency, local agency or school district from the proposal, and that the proposal will not affect federal funding to the state.

ECONOMIC IMPACT ON BUSINESSES AND INDIVIDUALS, JOBS, AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

The Department has calculated the economic impact of the proposed regulations by calculating the effect of the regulations on premium written in California in 1999, the most recent year for which annual data is available. In 1999 credit property insurers wrote approximately \$70 million of premium in California. The Department estimates that the regulations will decrease the amount of the premium written by these insurers by approximately 75%, or \$52,500,000. This would reduce the total credit property insurance premium written in California to approximately \$17,500,000 per year. The Department expects the regulations will have a similar effect on credit unemployment insurance premium written in California. In 1999 credit unemployment insurers wrote approximately \$180 million of premium in California. The Department estimates that the regulations will decrease the amount of the premium written by these insurers by approximately 75%, or \$135,000,000. This will reduce the total credit unemployment insurance premium written in California to approximately \$45,000,000 per year.

The premium reductions will affect insurers and other businesses in the chain of distribution such as lenders and retailers selling goods on credit. These businesses will incur one-time costs associated with complying with the new rates. These costs will vary widely based upon the type of business and distribution system involved and cannot be readily estimated. For example, insurers will have to make new rate filings in order to comply with Insurance Code §779.36. However, since these insurers are already subject to the rate approval requirements of Proposition 103 (Insurance Code §§1861.01 et seq.) they have made rate filings in the past and they can make the rate filings required by the regulations without unusual expense or disruption. Businesses receiving commissions, acquisition costs, or other similar expenses from insurers will likely receive reduced compensation.

The proposed regulations will take approximately \$187,500,000 annually from the pockets of lenders and retailers (in the form of compensation) and the credit insurance industry. It will put that \$187,500,000 directly into the pockets of consumers to spend on additional goods and services as they choose. One can only speculate as to the effect of this shift on the aggregate creation or elimination of jobs within the state of California, the creation of new businesses or the elimination of existing businesses in the State, or the expansion of businesses currently doing business within California. However, to the extent this transfer will have any overall effect on the huge California economy, the effect will probably be salutary.

The proposal will not have an adverse impact on the ability of California businesses to compete with businesses in other states. All insurers selling credit property insurance and credit unemployment insurance in California will be subject to the requirements of the proposed regulations, regardless of whether they are California companies or out-of-state companies. The largest writer of credit property and credit unemployment insurance in California is a Florida company, not a California company. Moreover, to the extent the regulations provide consumers with annual savings of approximately \$187,500,000, the regulations may increase competitiveness within the state because this money will be returned in some fashion to the California economy.

The changes wrought by the regulations will take place as a result of the restrictions on premium imposed by Insurance Code §779.36, not the regulations themselves, which merely implement the terms of the statute. Given these facts, the Department has determined that the regulations themselves will not have a significant adverse economic impact on business, including the ability of California businesses to compete with businesses in other states.

IMPACT ON SMALL BUSINESS

Insurers are not “small businesses” under Govt. Code Sec. 11342(h), the statute which requires the Commissioner to evaluate the effect of regulatory proposals on “small business.” However, “small businesses” may comprise some part of the distribution chain of credit property insurance and credit unemployment insurance, either as “creditors” (usually, small retailers) or as insurance producers. The Department believes that most businesses affected by the regulations are excluded from the definition of “small business” under Government Code §11342(h)(2). However, to the extent some “small businesses” may be affected by the proposed regulations, these businesses receive compensation for their credit insurance activities, and may well receive reduced compensation as a result of the rate reductions mandated by the proposed regulations. The Department is unaware of any existing data on the aggregate credit insurance compensation paid to “small businesses” in California. To the extent any “small businesses” are affected by the regulations, this will be a result of the rate restrictions imposed by Insurance Code §779.36, not the regulations themselves, which merely implement the terms of the statute

COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The overall cost impact on the California public is set forth above. Credit property and credit unemployment insurance coverage is sold to consumers, so the cost impact based solely on the reduction of rates would be passed on directly to members of the California credit insurance buying public as savings in their cost of credit insurance.

The cost impact on businesses directly affected by the proposed regulations is set forth above. Business entities which must comply with the proposed regulations will incur one-time costs associated with the rate filings they will have to make in order to comply with Insurance Code §779.36. Since these insurers are already subject to the rate

approval requirements of Proposition 103 (Insurance Code §1861.01 et seq.) they have made rate filings in the past and can make the rate filings required by the regulations without unusual expense or disruption. Other one-time costs associated with complying with the regulations would vary widely based upon the types of business and distribution systems involved and cannot be readily estimated.

To the extent that the proposal has a cost impact on private persons or businesses directly affected, that cost impact is a result of the Insurance Code section being implemented, interpreted, and made specific by the proposed action.

IMPACT ON HOUSING COSTS

The proposed regulations will not affect housing costs.

ALTERNATIVES

Insurance Code §779.36 requires the Commissioner to promulgate rate regulations which impose the rate controls set forth in the proposed regulations. The Commissioner has determined that no alternative of which he is aware would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

NON-DISCRETIONARY COSTS OR SAVINGS

The proposal will not impose any non-discretionary cost or savings on local agencies.

COSTS OR SAVINGS TO STATE AGENCIES

The proposal will not result in any cost or in significant savings to state agencies.

REIMBURSABLE COSTS

There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

Adoption of the proposed plan would not mandate the use of specific technologies or equipment.

PLAIN ENGLISH

The proposal is in plain English except to the extent that technical terms could not be avoided. Those technical terms are defined in plain English.

COMPARABLE FEDERAL LAW

There are no comparable federal regulations or statutes on the specific problem that the proposal addresses.

TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS

The Department has prepared a separate document titled "Initial Statement of Reasons" which sets forth the reasons for the proposed regulations. Copies of the Notice of Proposed Action, the proposed regulations, the Informative Digest, and the Initial Statement of Reasons may be obtained at no charge from the contact person listed above. Please reference the "RH-386" rulemaking proceeding when contacting the contact person.

ACCESS TO COPIES OF PROPOSED REGULATIONS AND STATEMENT OF REASONS

Any interested person may inspect a copy of the Notice of Proposed Action, the proposed regulations, the Informative Digest, the Initial Statement of Reasons, the information upon which the proposal is based, and supplemental information contained in the rulemaking file by contacting the contact person listed above. The rulemaking file is available for inspection at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday. Please make arrangements with the contact person at least 24 hours in advance to view the rulemaking file. Please reference the "RH-386" rulemaking proceeding when contacting the contact person.

AUTOMATIC MAILING

A copy of this Notice, the Informative Digest, the Initial Statement of Reasons and the proposed regulations will be sent to each person on the Insurance Commissioner's mailing list.

MODIFIED LANGUAGE

If the Department amends the proposed regulations with changes that are sufficiently related to the original text, the Department will make the full text of the amended regulations, with the changes clearly indicated, available to the public for at least 15 days before the date the Department adopts the amended regulations.

Dated: November 6, 2000

By: /s/
Nancy Neu
Senior Staff Counsel